

EX PARTE OR LATE FILED

Brandon Burgess
President and Chief Executive Officer



August 31, 2007

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SEP - 4 2007

Federal Communications Commission
Office of the Secretary

ORIGINAL

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: CS Docket No. 98-120
Ex Parte Filing

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the FCC's Rules, this letter is submitted, in duplicate, to advise you that on August 30, 2007, the undersigned spoke with Cristina Pauze, legal advisor to Commissioner Robert McDowell, on matters relating to the FCC's Second Further Notice of Proposed Rulemaking in this docket. We also discussed the substance of my August 28, 2007 letter to the FCC regarding the carriage of digital broadcast signals after the DTV transition is completed. A copy of that letter is attached.

Very truly yours,

A handwritten signature in black ink that reads "Burgess".

Brandon Burgess
President and CEO
ION Media Networks

Attachment

cc: (w/attachment) Cristina Pauze

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List ABCDE

Brandon Burgess
President and Chief Executive Officer



August 28, 2007

Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Carriage of Digital Broadcast Signals
CS Docket No. 98-120

Dear Chairman Martin and Commissioners:

It appears that the Commission will be considering, at the September 11 agenda meeting, the adoption of an Order that will insure the continued cable carriage of all local television broadcast signals to all cable subscribers following the completion of the digital transition in February, 2009.¹ ION Media Networks, Inc. ("ION") strongly supports this pro-consumer, pro-competition plan for post-transition carriage of local television stations. The Commission's Proposal strikes just the right balance among the needs of viewers, cable operators, and broadcasters, based on our understanding of the approach as follows.

All cable subscribers today can view all local stations via either must carry or retransmission consent. The Commission wishes to ensure that cable subscribers with analog television sets are not disenfranchised in the digital transition. In fact, the Communications Act requires that all local must carry stations be viewable on all television receivers in all cable homes. The Commission's Proposal to ensure the viewability of all local broadcast stations following the DTV transition is both simple and effective:

Post-DTV transition, cable operators can choose to carry the signals of all must carry stations in analog format to remaining analog cable subscribers, while carrying the corresponding digital feeds for digital cable subscribers;

¹ Carriage of Digital Television Broadcast Signals: Amendments to Part 76 of the Commission's Rules, *Second Further Notice of Proposed Rulemaking*, CS Docket No. 98-120, FCC 07-71 (released May 4, 2007).



or, alternatively, cable operators have the flexibility to carry the broadcast signals only in digital format, and provide those subscribers with analog television sets the necessary equipment to "downconvert" the digital broadcast feeds to analog for the specific purpose of making them viewable for remaining analog homes and analog television sets.

This cable election would apply to all must carry stations in every local television market.

A cable operator can choose one of these two viewability options. This is fair, efficient and fully supported by existing law.

The 1992 Cable Act provides that all viewers must have access to all television broadcast signals in their markets and this system has served the nation well for over 15 years. In keeping with this Congressional intent, the Commission must guarantee that no television viewer is left behind by the DTV transition. For ION and other independent broadcasters that are not affiliated with major networks or studios, the continued full carriage of their broadcast signals is critical to post-transition viability. Immediate adoption of the Commission's Proposal would be an important step towards the goals of continued diversity and family-oriented, free-over-the-air broadcast service to the American public.

ION is one of the very few remaining independent television broadcast station groups in the United States. In the last two years alone, ION also dedicated itself to being a broadcast DTV pioneer, heeding the Commission's call to use digital spectrum to develop new and innovative DTV programming services that provide vital, family-friendly and free services to our communities. These services include our qubo children's programming network and the health-themed ION Life, as well as our commitment to family viewing on weekday prime time and weekends.

ION depends entirely on must-carry to reach the full audience in each of our markets. And just like ION, there are hundreds of other independent, religious, foreign-language, and other specialty programming stations that add to the rich tapestry of the American broadcasting system -- a system that Congress was determined to protect through the institution of must-carry in 1992.

ION has spent nearly ten years working with the Commission to build our DTV operations for the digital transition. It is essential for our viability that all cable subscribers are able to receive the positive results of the government DTV mandate. The Commission has recognized, and Congress confirmed in the 1992 Cable Act, that carriage of the most popular television stations alone is not



enough. Must-carry is designed to make certain that no television viewers will be left unserved, whether they prefer traditional network fare or independent family programming such as that offered by ION.

The FCC Proposal is fully consistent with the 1992 Cable Act's must-carry provisions, as implemented by the FCC over the past 15 years, and upheld by the Supreme Court. There are no First Amendment and spectrum impediments to the FCC Proposal. The 1992 Cable Act struck an appropriate balance between the interests of cable operators and free television broadcasting. The American television household was the direct beneficiary of that action. The only way to continue to fulfill that Congressional intent, after the DTV transition, is to make sure that no television viewers suffer exclusion from over-the-air broadcasting in the DTV transition. The Commission's post-transition cable carriage proposal is the necessary first step to making sure that every American television household enters the post-transition world with equally consistent access to broadcast television. The Commission should adopt its Proposal without delay.

Sincerely,

A handwritten signature in black ink that reads "Burgess".

Brandon Burgess